

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1377-MN-JLH

MASIMO CORPORATION,

Counter-Claimant,

v.

APPLE INC.

Counter-Defendant.

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1378-MN-JLH

MASIMO CORPORATION and
CERCACOR LABORATORIES, INC.,

Counter-Claimants,

v.

APPLE INC.

Counter-Defendant.

**JOINT MOTION FOR IN-PERSON CONFERENCE
TO RESOLVE DISCOVERY DISPUTES**

The parties respectfully move this Court to schedule an in-person conference subject to the Court's approval and availability, to address outstanding disputes regarding the following discovery matters:

- Apple's position that it need not provide discovery on Masimo's antitrust theories regarding (1) predatory infringement and (2) monopoly leveraging.
- Whether the parties' de-duping of newly collected documents against documents made available pursuant to cross-use should be limited to solely exclude documents that are identical, including with respect to metadata and custody.
- Apple's responses to Masimo's RFP Nos. 62-65, 76-90, 112-114, 118, and Interrogatory No. 16.
- Masimo's responses to Apple's RFP Nos. 61-62, 64-65, and 76-78.
- Masimo's response to Apple's RFP No. 74.

The following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in a verbal meet-and-confer by telephone on the following dates: July 6, 2023, July 10, 2023, and July 12, 2023.

Delaware Counsel:

For Masimo: John C. Phillips, Jr.

For Apple: Bindu A. Palapura, Dave Moore (one or both on each date)

Lead Counsel:

For Masimo: Stephen Larson, Adam Powell (July 12 only), Justin Gillett (PHV to be filed)

For Apple: Mark Ford, Jennifer Milici

The parties are available for an in-person conference on the following dates: **July 28, 2023, August 2, 2023 and August 3, 2023.**

Dated: July 18, 2023

POTTER ANDERSON & CORROON LLP

PHILLIPS MCLAUGHLIN & HALL, P.A.

/s/ David E. Moore

David E. Moore (#3983)
Bindu A. Palapura (#5370)
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801
(302) 984-6000
dmoore@potteranderson.com
bpalapura@potteranderson.com

Attorneys for Plaintiff

/s/ John C. Phillips, Jr.

John C. Phillips, Jr. (#110)
Megan C. Haney (#5016)
1200 North Broom Street
Wilmington, Delaware 19806
(302) 655-4200
jcp@pmhdelaw.com
mch@pmhdelaw.com

Attorneys for Defendants